

STANDARD UTILITY AGREEMENT

Non Federal-aid

Agreement No. _____

County Brazos

ROW Account No. 8017-1-48

Federal Project No. _____

Highway No. SH 40

CSJ No. 0540-08-002

Contract No. _____

This Agreement by and between the State of Texas, acting by and through the Texas Transportation Commission, hereinafter called the **State**, and The City of College Station, hereinafter called the **Owner**, acting by and through its duly authorized representative, *shall be effective on the date of approval and execution by and on behalf of the State.*

WHEREAS, the **State**, has deemed it necessary to make certain highway improvements generally described as follows: County Brazos Highway SH 40
located from FM 2154
to SH 6; and,

WHEREAS, this proposed highway improvement will necessitate the adjustment, removal or relocation of certain facilities of **Owner** as indicated in the following statement of work:

The relocation of 160 feet of 24" ductile iron water line West of the future State Highway 40 and State Highway 6 intersection.

and such work is shown in more detail in **Owner's** preliminary plans, specifications and cost estimates which are attached hereto and made a part hereof; and,

WHEREAS, the **State** desires to implement the adjustment, removal or relocation of **Owner's** facilities by entering into an agreement with said **Owner** as soon as possible;

NOW, THEREFORE, BE IT AGREED:

The **State**, subject to the acquisition of such rights or interests as may be deemed necessary along or across **Owner's** interest in land, will pay to **Owner** the costs incurred in adjusting, removing or relocating **Owner's** facilities up to the amount said costs may be eligible for State participation.

The **Owner** has determined that the method to be used in developing the adjustment, removal or relocation costs shall be as specified for the method checked and described hereafter:

- ☐ (1) Actual direct and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by the applicable Federal or State regulatory body.
- ☐ (2) Actual direct and related indirect costs accumulated in accordance with an established accounting procedure developed by the **Owner** and approved by the **State**.
- ☐ (3) An agreed lump sum of \$ _____, as supported by the analysis of estimated cost attached hereto.

If costs are developed under procedure (1) or (2) as hereinbefore specified, the **State** will, upon satisfactory completion of the adjustment, removal or relocation and upon receipt of a detailed final billing prepared in acceptable form and manner, make payment in the amount of ninety (90) percent of the eligible costs as shown in the final billing prior to the required audit and after such audit shall make final payment in an amount so that the total payments will equal the amount found eligible for State reimbursement by the final audit. When requested, the **State** will make intermediate payments at not less than monthly intervals to **Owner** when properly billed and such payments will not exceed eighty (80) percent of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment. If costs are developed under procedure (3) as hereinbefore specified, the **State** will, upon satisfactory completion of the adjustment, removal or relocation and upon receipt of a billing prepared in acceptable form and manner, make payment to **Owner** in the agreed amount.

Upon execution of this agreement by both parties hereto, the **State** will, by written notice, authorize the **Owner** to proceed with the necessary removal, adjustment or relocation, and the **Owner** agrees to prosecute such work diligently to completion in such manner as will not result in avoidable interference or delay in either the **State's** highway construction or in the said work. The **Owner** will carry out said removal, adjustment or relocation, accurately record the costs, and retain such records in accordance with applicable rules, regulations and procedures or the **State**, and the costs paid by the **State** pursuant to this agreement shall be full compensation to **Owner** for all costs incurred by **Owner** in making such adjustment, removal or relocation. Bills for work hereunder should be submitted to **State** not later than ninety (90) days after completion of the work.

In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefor shall be limited to costs covered by a modification of this agreement or a written change or extra work order approved by the **State**.

It is expressly understood that this agreement is subject to cancellation by the **State** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **State**. The **Owner** by execution of the agreement does not waive any of the rights which **Owner** may legally have within the limits of the law.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures.

Owner: City of College Station
Utility Name

EXECUTION RECOMMENDED:

By: _____
Authorized Signature

District Engineer, Texas Department of Transportation

Title: _____

Date: _____

THE STATE OF TEXAS

Certified as being executed for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
Director of Right of Way
Texas Department of Transportation

Date: _____

Utility Joint Use Agreement (Non Controlled Access Highway)

Agreement No. _____

THE STATE OF TEXAS }
COUNTY OF _____ Travis }

County Brazos
Federal Project No. _____
CSJ No. 0540-08-002
Account No. 8017-1-48
Highway No. SH 40
Limits From FM 2154
to SH 6

WHEREAS, the State of Texas, hereinafter called the **State**, acting by and through the Texas Department of Transportation, proposes to make certain highway improvements on that section of the above-indicated highway; and

WHEREAS, the City of College Station, hereinafter called **Owner, proposes to retain, locate or relocate certain of its facilities and retain title to any property rights it may have on, along or across, and within or over such limits of the highway right of way as indicated on the plans attached to Standard Utility Agreement as executed by **Owner** on the ____ day of _____, 20 ____, ~~or on location sketches attached hereto~~ except as provided hereinbelow:**

NOW, THEREFORE, it is hereby mutually agreed that joint usage for both highway and utility purposes will be made of the area within the highway right of way limits as such area is defined and to the extent indicated on the aforementioned plans or sketches. Where **Owner** by reasons of ownership of an easement or fee title or otherwise under law has the right to alter, modify or add to facilities presently located within the area above described or construct additional facilities therein, such right is hereby retained, provided, however, if existing facilities are to be altered or modified or new facilities constructed within said area the **Owner** agrees to notify the Texas Department of Transportation prior thereto, to furnish necessary sketches showing location, type of construction and methods to be used for protection of traffic, and if, in the opinion of the Texas Department of Transportation, such alteration, modification or new construction will injure the highway or endanger the traveling public using said highway, the Texas Department of Transportation shall have the right, after receipt of such notice, to prescribe such regulations as necessary for the protection of the highway facility and the traveling public using said highway; provided further, however, that such regulations shall not extend to the requiring of the placement of intended overhead lines underground or the routing of any lines outside of the area of joint usage above described.

In the event of an emergency, it being evident that immediate action is necessary for protection of the public and to minimize property damage and loss of investment, either party hereto may at their own responsibility and risk make necessary emergency repairs, notifying the other party hereto of this action as soon as is practical.

Participation in actual costs incurred by the **Owner** for any future adjustment, removal or relocation of utility facilities required by highway construction shall be in accordance with and to the extent possible under applicable laws of the State of Texas. Except as expressly provided herein, (1) the **Owner's** rights of access to the through-traffic roadways and/or ramps shall be subject to the same rules and regulations as apply to the general public, and (2) the **Owner** and the **State**, by execution of this agreement, do not waive or relinquish any right which they may have under the law or Constitution, State or Federal.

In the event the **Owner** fails to comply with the requirements as set out herein, the **State** may take such action as it deems appropriate to compel compliance.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures.

Owner: City of College Station
Utility Name

EXECUTION RECOMMENDED:

By: _____
Authorized Signature

District Engineer, Texas Department of Transportation

Title: _____

Date: _____

THE STATE OF TEXAS

Certified as being executed for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
Director of Right of Way
Texas Department of Transportation

Date: _____

STATEMENT
(Covering Contract Work as Appears in Preliminary Estimate)

Agreement No. _____

County Brazos

ROW Account No. 8017-1-48

Federal Project No. _____

Highway No. SH 40

CSJ No. 0540-08-002

I, Mark Smith, a duly authorized and qualified representative of City of College Station, hereinafter referred to as **Owner**, am fully aware of the facts and make the following statements in respect to work which will or may be done on a contract basis as appears in the preliminary estimate to which this statement is attached:

☐ I. It is more economical and/or expedient for **Owner** to contract this adjustment because:

☐ II. **Owner** is not adequately staffed or equipped to perform the necessary work on this project with its own forces to the extent as indicated on the preliminary estimate.

Procedure to be Used in Contracting Work

☐ A. Solicitation for bids is to be accomplished through open advertising and contract is to be awarded to the lowest qualified bidder who submits a proposal in conformity with the requirements and specifications for the work to be performed.

☐ B. Solicitation for bids is to be accomplished by circularizing to a list of prequalified contractors or known qualified contractors and such contract is to be awarded to the lowest qualified bidder who submits a proposal in conformity with the requirements and specifications for the work to be performed. Such presently known contractors are listed below:

1.

2.

3.

4.

5.

- ☐ C. The work is to be performed under an existing continuing contract under which certain work is regularly performed for **Owner** and under which the lowest available costs are developed. (If only part of the contract work is to be done under an existing continuing contract, give detailed information by attachment hereto.)
- ☐ D. The utility proposes to contract outside the foregoing requirements and therefore evidence in support of its proposal is attached to the preliminary estimate in order to obtain the concurrence of the **State** and the Federal Highway Administration Division Engineer, where applicable, prior to taking action thereon (approval of the agreement shall be considered as approval of such proposal).

Signature

Title

Date

AFFIDAVIT

Agreement No. _____

THE STATE OF TEXAS }
COUNTY OF BRAZOS }

County Brazos
Federal Project No. _____
CSJ No. 0540-08-002
ROW Account No. 8017-1-48
Highway No. SH 40
(To be filled in by State)

WHEREAS, the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the **State**, has deemed it necessary to make certain improvements on Highway SH 40 in Brazos County, Texas, from FM 2154 to SH 6; and

WHEREAS, it is anticipated that the hereinabove mentioned improvements will affect the facilities of The City of College Station, hereinafter called the **Owner**, at the following described locations:

West of the future State Highway 40 and State Highway 6 intersection.

; and

WHEREAS, the **State** has requested that the **Owner** furnish to the **State** information relative to interests that **Owner** holds in lands at each of the hereinabove referenced locations;

NOW, THEREFORE, before me, the undersigned authority, this day personally appeared _____, who, after being by me duly sworn, did depose and say:

That he/she is _____ of the City of College Station and, as such, has knowledge of the facts contained herein, and

That, to the best of his/her knowledge, said **Owner** is the owner of the following described interests in the hereinabove-indicated lands, copies of the instruments under which said **Owner** claims said interests being attached hereto and made a part hereof:

Copies Attached

Signature

Title

City of College Station

Company

Sworn to and subscribed before me this _____ day of _____, A.D. 20 _____.

Notary Public, State of Texas (Signature)

(Print or Type Name of Notary Public)

My Commission expires on the _____ day of _____, 20 _____.